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SUBJECT: THE ANTI-CORRUPTION AND TRANSPARENCY SERVICE: AN
UNDERWEIGHT ENTRANT IN THE ANTI-CORRUPTION EFFORT

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Classified By: Deputy Chief of Mission Elizabeth Dibble for reasons 1.4
b and d

¶1. (C) Summary. Italy abolished its Office of the High Commissioner Against Corruption in June 2008. The Berlusconi Government defended the closure as a cost-cutting move, and said the functions of the office would be subsumed by another, newly created GOI office, the Anti-Corruption and Transparency Service. Post recently visited the new office and came away with the impression that it does not have the capacity to be a major player in anti-corruption efforts. It is intended as a "coordinating hub", with only analytical and advisory responsibilities, and has no line authority over judicial or other relevant law and order institutions. End summary.

BERLUSCONI GOVERNMENT AXES ANTI-CORRUPTION OFFICE, CREATES A
NEW ONE

¶2. (C) Soon after returning to power, Silvio Berlusconi's new government raised eyebrows by abolishing Italy's Office of the High Commissioner Against Corruption. This move took place in the midst of controversial (and eventually successful) efforts by Berlusconi to secure for himself immunity from prosecution while in office. Asked then by EMBOFFS about the closure of his office, Acting High Commissioner Ermanno Granelli said, "this is an absurdity which will not only impair our ability to fight corruption in ItaQ but will tarnish our image further internationally." Granelli implied that the government considered the High Commissioner Office to be an irritant and that it used budget cuts as an excuse to eliminate it.

¶3. (SBU) The abolishment of the High Commissioner Office caught the attention of OECD officials involved in implementation of that organization's Qi-bribery convention. In July 2008 the OECD's Mark Pieth, the Anti-Bribery Working Group Chair for the past decade, wrote to the Italian government about "recent changes to Italy's criminal legal system, which may have repercussions in the fight against the bribery of foreign public officials." In his letter, Pieth went on to seek "clarification on why the Italian Government has taken steps to abolish the office, and the impact that this may have on Italy's fight against corruption, including enforcement of the offense of bribing a foreign public official under the Italian Penal Code." (Note: According to Italy's compliance review conducted by the OECD

and published in March 2007, the abolished Commission was not empowered to pursue cases of foreign bribery falling under the Anti-Corruption Convention. Nevertheless, Pieth's concern was well-placed, in that weak efforts against domestic corruption cannot be expected to lead to stronger measures abroad. End Comment)

¶4. (SBU) The GOI has responded to concerns about the elimination of the High Commissioner Office by stating that all of the functions of that office would be taken on by a new organization -- The Anti-corruption and Transparency Service (SAeT) which has been set up under the GOI's Minister for Public Administration and Transparency, Renato Brunetta.

EMBASSY VISIT TO NEW ANTI-CORRUPTION OFFICE

¶5. (C) In an effort to determine if the new organization will be effective, ECONOFF recently called on Magistrate Silvio Bonfigli, Deputy Director of SAeT. SAeT personnel were helpful, and seemed enthusiastic about their new responsibilities, but the information they provided calls into question the ability of SAeT to have a significant impact on Italy's domestic corruption and ability to adhere to international commitments:

-- Limited advisory role: SAeT's three main activities under its mandate are mostly analytical and advisory. They include: 1) setting guidelines for the Italian public sector, 2) monitoring and mapping the risk of corruption within the public administration, and 3) drafting a national plan against corruption.

-- Narrow public sector scope: SAeT's anti-corruption activities only cover the government sector. This narrow bailiwick excludes even members of Parliament (unless they perform a public administration role in a government institution). Its mandate does not cover Italian private sector companies either. As for enforcement of the OECD anti-bribery convention, Bonfigli explained that perhaps his organization might be able to do something in this area but only if the bribe payer is an Italian parastatal. However, he warned that this is only SAeT's interpretation of its mandate; it could be challenged by Italian parastatals who could claim that they operate in a private sector legal regime and are thus not subject to SAeT's public sector scope.

-- Fewer resources: Its staff consists of 15 experts and two senior directors (vice the 60-person staff of the High Commissioner).

-- Not much authority: SAeT does not have any supervisory or oversight authority over any other GOI anti-corruption institution. SAeT will thus operate as a "coordinating hub" and hopes to "delegate" a lot of its work to other GOI institutions (the Carabinieri, customs, the Bank of Italy and others). Given the storied independence of the Italian judiciary and the lack of line authority over institutions with potential anti-corruption mandates, it is difficult to see SAeT having much of an impact.

-- Less independence than the former High Commissioner Office: While never very effective, the High Commissioner's Office appeared to enjoy some independence needed by an anti-corruption watchdog by virtue of the fact that it was funded by and reported to Parliament. SAeT, in contrast, has been placed under a Berlusconi government minister who reports to the Prime Minister. SAeT has no independent funding.

COMMENT: SAeT UNLIKELY TO PUT A DENT IN ITALIAN CORRUPTION

¶6. (C) In our work with the High Commissioner's Office, we had found that organization to be well-intentioned but largely ineffective. We went to SAeT hoping to find the beginnings of an organization that might be able to take effective action on Italy's pervasive corruption problem. There was some reason for hope: Minister Brunetta, under whom SAeT is operating, is by far the most energetic and aggressive of the GOI's reformers. Our visit to SAeT, however, left us disappointed. Because of its reduced level of independence, smaller size, and more circumscribed bailiwick, we think SAeT is likely to prove even less effective than the organization that it replaced.

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